

Amendment No. 2 to HB2515

Lynn
Signature of Sponsor

AMEND Senate Bill No. 2731

House Bill No. 2515*

by deleting all language after the caption and substituting instead the following:

WHEREAS, Article VI, Section 5 of the Tennessee Constitution provides for an attorney of each district who is authorized to initiate proceedings in the criminal courts of Tennessee. Article VI, Section 5 also provides that in all cases where such an attorney for any district fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*; and

WHEREAS, the Tennessee Supreme Court has interpreted Article VI, Section 5 to provide a court the power to appoint an attorney *pro tempore* not only when an attorney for the district fails to attend court or is disqualified, but also when an attorney for the district fails or refuses to prosecute according to the law; and

WHEREAS, the people of the state of Tennessee have a substantial interest in the proper and efficient administration of state government, which includes maintaining the security and integrity of state property, especially in times of crisis; and

WHEREAS, when there are multiple violations of state laws enacted to protect the proper and efficient administration of state government and these laws go unenforced, the Attorney General and Reporter should have a process to request that a court appoint an attorney *pro tempore* because of the state's substantial interest in the proper and efficient administration of state government; now therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-7-106, is amended by adding the following language as a new subsection:

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(1) If a district attorney general declines or fails to prosecute an offense involving state property or the administration of state government within a reasonable time, as determined by the attorney general and reporter, the attorney general and reporter may petition the court with jurisdiction over the offense to appoint an attorney to act as district attorney general pro tempore in the offense. The district attorney general pro tempore shall have authority to conduct criminal proceedings in the offense specified by the court, including grand jury proceedings, as the district attorney general is authorized by law to conduct in that district. The attorney general and reporter shall notify the district attorneys general conference of the petition.

(2) Upon the filing of a petition pursuant to subdivision () (1), the court shall conduct an expedited hearing. The district attorneys general conference shall submit a list of recommended attorneys to the court prior to the hearing. If the court appoints a district attorney general pro tempore, the court shall select the district attorney general pro tempore from the list submitted by the district attorneys general conference.

(3) If the court denies the petition for appointment of a district attorney general pro tempore, the attorney general and reporter may, within five (5) days, appeal the court's decision as of right to the Tennessee supreme court.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

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